

-- 44. (Amended) Δ [The] personal care composition [of claim 1, wherein the  
comprising:

(a) from about 0.1% to about 99% by weight of a vehicle system which  
comprises a hydrophobically modified nonionic water soluble polysaccharide polymer  
having a hydrophilic portion which comprises a water soluble polysaccharide polymer  
backbone and a hydrophobic moiety which comprises [is] 3-alkoxy-2-hydroxypropyl  
group wherein the alkyl moiety is a straight or branch chain having 2-6 carbon atoms,  
and wherein the ratio of the hydrophilic portion to the hydrophobic portion of the  
polymer is from about 2:1 to 1000:1, and

(b) at least one active personal care ingredient.--

#### **REMARKS**

Entry of the above amendment and reconsideration and withdrawal of the  
rejections are respectfully requested.

Withdrawal of the rejection of claim 44 under 35 USC 112, second paragraph,  
as being indefinite for failing to particularly point out and distinctly claim the subject  
matter which the applicant regards as the invention is now in order in view of the  
amendment to claim 44. Claim 44 has now been changed into an independent claim  
which makes any issue concerning antecedent basis moot.

The rejection of claims 1-8, 10, and 44 under 35 USC 102(b) as being  
anticipated by Angerer '733 is traversed. The applicant has now amended the  
claims to include in claim 1 that the personal care ingredient is an active personal  
care ingredient as defined in the specification on pages 6 and 7 as well as in the  
working examples on pages 8 to 30. Angerer is directed solely to an aqueous  
protective coating composition that is in a non-analogous field from a personal care  
composition. The active ingredients in personal care compositions are completely  
different than the ones for aqueous protective coating compositions or paints. A

person having an ordinary skill in the art armed with the Angerer patent would not be directed to using such paint formulation for personal care products.

The rejection of claims 1 to 8 and 44 under 35 USC 102(b) as being anticipated by Sau '772 is traversed. It must be reiterated that the Sau reference discloses a mixed hydrophobe polymer with at least two (2) hydrophobic radicals where one can be the 3-alkoxy-2-hydroxypropyl moiety and the other hydrophobe has to be at least two (2) carbon atoms longer than the first. When one of the hydrophobes of the Sau reference is a C<sub>6</sub>, the other has to be at least C<sub>8</sub>; Sau is an associative thickener because of the long chain alkyl groups while the instant invention is not and can never be an associative thickener. Associative thickeners have different properties than the instant invention. Again, it must be reiterated that the Sau patent is enabling only for the use in latex paint. There is no disclosure in Sau on how to make or use its water soluble cellulose ether polymer in personal care compositions. There simply is no disclosure in this reference or working example on how to make the cosmetics and/or shampoos. These are merely empty disclosures without apprising a person skilled in the art how to practice the invention regarding these two types of compositions. The entire content and spirit of this invention is directed to the use in paints or coating compositions. There simply is no disclosure of an active personal care ingredient as defined in the instant invention for use in the Sau reference. Hence, the Sau reference clearly does not anticipate the instant invention.


The rejections of claims 1, 8, 9, and 44 under 35 USC 102(b) is being anticipated over t'Sas '207 is traversed. The t'Sas patent is directed only to building compositions. There is no disclosure in this patent for apprising a person skilled in the art how to use this composition for use in personal care compositions. Building materials and personal care compositions are in non-analogous arts. The active

ingredients of the instant invention would not be suggested by the t'Sas patent. For the reasons set forth above, it is submitted that this rejection should be withdrawn.

The rejection of claims 11-43 under 35 USC 103 as being obvious in view of Angerer or Sau is traversed. The arguments set forth above concerning these references are herein repeated. Hence, it would not be obvious to a person having an ordinary skill in the art armed with the Angerer or Sau references to make the instant personal care composition.

For the reasons set forth above, it is submitted that this application is now in condition for allowance and prompt notification thereof is respectfully requested.

Respectfully submitted,

  
David Edwards  
Attorney for Applicant  
Reg. No. 27,293

Hercules Incorporated  
Hercules Plaza  
1313 North Market Street  
Wilmington, DE 19894-0001

(302) 594-6974

October 8, 1999

a:\modi2amt.doc